

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-fourth Legislature - Second Regular Session

COMMITTEE ON COMMERCE

Report of Special Meeting  
Tuesday, May 19, 2020  
2:00 P.M. OR UPON ADJOURNMENT OF ELECTIONS

Convened 4:05 P.M.

Recessed

Reconvened

Adjourned 5:53 P.M.

MINUTES RECEIVED  
CHIEF CLERK'S OFFICE

5-20-20

Members Present

Mr. Biasiucci  
Ms. Butler  
Mr. Chávez  
Ms. Epstein  
Mr. Kern  
Mr. Meza  
Mr. Roberts  
Mr. Grantham, Vice-Chairman  
Mr. Weninger, Chairman

Members Absent

Agenda

Original Agenda – Attachment 1

Request to Speak

Report – Attachment 2

Committee Attendance

Report – Attachment 3

Committee Action

<u>Bill</u>	<u>Action</u>	<u>Vote</u>	<u>Attachments</u>
SB1195	DP	5-3-1-0	4, 5, 6
SB1133	DP	5-2-2-0	7, 8, 9, 10, 11, 12, 13
SB1335	DP	7-0-2-0	14, 15, 16, 17, 18
SB1373	DP	8-0-1-0	19, 20, 21,
SB1510	DP	8-0-0-1	22, 23, 24,
SB1397	DP	7-1-0-1	25, 26, 27, 28, 29

  
\_\_\_\_\_  
Paul Benny, Committee Secretary  
May 20, 2020

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-fourth Legislature - Second Regular Session

CON: 1:41:05 PM

ADJ: 5:53 PM

SPECIAL MEETING AGENDA  
**COMMITTEE ON COMMERCE**

DATE Tuesday, May 19, 2020

ROOM HHR 3 (Teleconference)

TIME 2:00 P.M. of upon  
adjournment of Elections

Members:

Mr. Biasiucci  
Ms. Butler  
Mr. Chávez

Ms. Epstein  
Mr. Kern  
Mr. Meza

Mr. Roberts  
Mr. Grantham, Vice-Chairman  
Mr. Weninger, Chairman

With permission of the Speaker pursuant to House Rule 9(C)(7)

Bills	Short Title	Strike Everything Title
*SB1133	<u>DP</u> public works; contracts; payment (Gray: Fann) <u>5-2-2-0</u> COM, RULES	
SB1195	<u>DP</u> liquor; sales; delivery; original packaging (Borrelli) <u>5-3-1-0</u> COM, RULES	
SB1335	<u>DP</u> tourism marketing authorities (Pace: Bowie) <u>7-0-2-0</u> COM, RULES	
SB1373	<u>DP</u> automated prescription-dispensing kiosks; permits (Pace) <u>8-0-1-0</u> COM, RULES	
*SB1397	<u>DP</u> insurance; preexisting condition exclusions; prohibition (Mesnard: Allen S, Borrelli, et al) <u>7-1-0-1</u> COM, RULES	

Bills	Short Title	Strike Everything Title
*SB1510	public contracts; payment methods (Livingston)	
	COM, RULES	

\* On previous agenda

#### ORDER OF BILLS TO BE SET BY THE CHAIRMAN

In accordance with the Public Health Emergency Declaration issued by Governor Ducey, the Commerce Committee will be conducted via teleconference software. Members of the public may access a livestream of the meeting here:

[https://azleg.granicus.com/MediaPlayer.php?publish\\_id=8](https://azleg.granicus.com/MediaPlayer.php?publish_id=8)

The public is urged to weigh in on legislation using the Request to Speak system (<https://apps.azleg.gov/RequestToSpeak/UpcomingAgendas>). Additionally, the public may provide written testimony through email to [pbenny@azleg.gov](mailto:pbenny@azleg.gov). The submitted testimony will be entered into the record.

JY  
05/18/2020

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032 or through Arizona Relay Service 7-1-1.

# Information Registered on the Request to Speak System

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## *House Commerce (5/19/2020)*

### **SB1133, public works; contracts; payment**

#### **Support:**

Barry Aarons, ASSOCIATED SPECIALTY CONTRACTORS OF ARIZONA; Stuart Goodman, Southern Arizona Water Users Association; Michael Gardner, AZ BUILDERS' ALLIANCE; Angelica Terrazas, ASSOCIATED SPECIALTY CONTRACTORS OF ARIZONA DBA CONSTRUCTION TRADES COALITION (CTC); Marty Giebelhaus, AZ STATE CONTRACTORS COALITION (ASCC), MARLIN MECHANICAL CORP, Self

#### **Oppose:**

Katy Yanez, NORTHERN ARIZONA UNIVERSITY; Marge Zylla, TEMPE, CITY OF; Pinal County Supervisor Anthony Smith, representing self; Graham County Supervisor James Palmer, representing self; Yuma County Supervisor Russell McCloud, representing self; Navajo County Supervisor Jason Whiting, representing self; Ryan Peters, CHANDLER, CITY OF; Tom Savage, LEAGUE OF ARIZONA CITIES & TOWNS; Santa Cruz County Supervisor Bruce Bracker, representing self; Robin Hillyard, County Supervisors Association Of Arizona; Todd Madeksza, COCONINO COUNTY, FLAGSTAFF, CITY OF; Katie Franquist, UNIVERSITY OF ARIZONA; Yesenia Dhott, PHOENIX, CITY OF; Ryan Lee, GLENDALE, CITY OF; Rodney Short, YUMA, CITY OF; Kendra Burton, AZ STATE UNIVERSITY

#### **All Comments:**

Marty Giebelhaus, AZ STATE CONTRACTORS COALITION (ASCC), MARLIN MECHANICAL CORP, Self: Adding represented org; Pinal County Supervisor Anthony Smith, Self: since the meeting for the amendment never took place, I hold my position as opposed.; Graham County Supervisor James Palmer, Self: Back in March the counties agreed to support this measure with an agreed up amendment. Without that amendment that we all agreed on we find this bill unacceptable and strongly oppose this bill. It would put scarce public resources at risk.; Yuma County Supervisor Russell McCloud, Self: In its current form local governments are not protected against cost increases while at the same time our budgets are being hammered. Wait until next session, get the agreed upon amendment in place, and pass it then. Thank you!; Robin Hillyard, County Supervisors Association Of Arizona: Moving forward without adopting the already AGREED upon changes will damage our ability to be effective stewards of public funds.; Kendra Burton, AZ STATE UNIVERSITY: Cities, counties, k12 & universities have long worked in good faith with proponents of this bill, & the 3/12 posted amendment would have moved us to neutral. Passage of 1133 without it will undermine our ability be effective stewards of public funds.

### **SB1195, liquor; sales; delivery; original packaging**

#### **Support:**

Alan Everett, AZ WINE GROWERS ASSN; Cheyenne Walsh, SHIPT, INC.

#### **Neutral:**

Trish Hart, AZ FOOD MARKETING ALLIANCE

**Oppose:**

Steve Barclay, BEER & WINE DISTRIBUTORS OF ARIZONA

**All Comments:**

Cheyenne Walsh, SHIPT, INC.: This bill makes a narrow exception to labeling requirements that still ensures delivery to adults over the age of 21. I respectfully encourage you to vote YES. Thank you!

**SB1373, automated prescription-dispensing kiosks; permits****Support:**

Stuart Goodman, MEDAVAIL TECHNOLOGIES, INC

**Oppose:**

Cathi Herrod, CENTER FOR ARIZONA POLICY; Ron Johnson, AZ CATHOLIC CONFERENCE

**All Comments:**

Cathi Herrod, CENTER FOR ARIZONA POLICY: Center for Arizona Policy recommends an amendment to clarify that abortion-related drugs are not available in this manner. With an amendment, we would be neutral on the bill.; Ron Johnson, AZ CATHOLIC CONFERENCE: Concerned about the possibility of increasing access to abortion related drugs unless an amendment is offered.

**SB1335, tourism marketing authorities****Support:**

Barry Aarons, EXPERIENCE SCOTTSDALE, VISIT MESA, VISIT PHOENIX, VISIT TUCSON; Nick Simonetta, CACTUS LEAGUE BASEBALL ASSN; Jen Marson, AZ ASSOCIATION OF COUNTIES; Jaime Molera, ARIZONA LODGING AND TOURISM ASSOCIATION; Robert Medler, TUCSON METROPOLITAN CHAMBER OF COMMERCE; Steve Barclay, BEER & WINE DISTRIBUTORS OF ARIZONA; Angelica Terrazas, EXPERIENCE SCOTTSDALE, VISIT MESA, VISIT PHOENIX, VISIT TUCSON; Laura Magnus, EXPERIENCE SCOTTSDALE, TUCSON CONVENTION & VISITORS BUREAU, VISIT MESA

**All Comments:**

Laura Magnus, EXPERIENCE SCOTTSDALE, TUCSON CONVENTION & VISITORS BUREAU, VISIT MESA: Written testimony has been emailed and provided for the record.

**SB1510, public contracts; payment methods****SB1397, insurance; preexisting condition exclusions; prohibition****Support:**

elisa desgroseilliers, representing self; Lynne Breyer, representing self; Attorney General Mark Brnovich, representing self; Jennifer Wellsman, representing self; Sallie Kladnik, representing self; Joseph Abate, AZ PSYCHIATRIC SOCIETY; Darrell Boomgaarden, representing self; Walter Steiner, representing self; Charlie Silver,

representing self; Kathy Fraser, representing self; Erin McCamish, representing self; Ruth Porter-Tilman, representing self

### **Oppose:**

Kimberly Dorris, representing self; Rebecca Smith Gross, representing self; Catherine Sigmon, representing self; Penni Lawson, representing self; Susan Morris, representing self; Julie Golding, representing self; Christine Keitges, representing self; Kathy Dixon, representing self; Linda Edwards, representing self; Peggy Klemp, representing self; Marilyn Coyle, representing self; Laurie Nerat, representing self; Margaret Adams, representing self; Hayley Stenger, representing self; Stephen Coyle, representing self; Kelli Lang, representing self; Teresa Neiberg, representing self; Lisa Tesnear, representing self; Linda Petersen-Vargas, representing self; Emily Norton, representing self; Elise Villescaz, representing self

### **All Comments:**

Kimberly Dorris, Self: My full comments were submitted via email, but this bill provides protections in name only. Because it fails to address Essential Health Benefits, Cost Sharing, and Annual/Lifetime caps, the bill leaves loopholes that insurers will easily exploit.; Catherine Sigmon, Self: It is so important not to weaken the Affordable Care Act when so many people are in need!; Susan Morris, Self: People need health care! They also need protection from insurance companies changing prices and benefits. PRESERVE ALL OF THE ASA PROVISIONS!; Kathy Dixon, Self: It doesn't protect the insured from the insurance company jacking up prices for pre-existing conditions; Linda Edwards, Self: Weak bill; Margaret Adams, Self: This bill offers no protection for Arizonans against rate spikes or pre-existing conditions coverage. Strike this bill down.; Elise Villescaz, Self: This bill would undermine our independent redistricting process.





# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature  
Second Regular Session

Senate: COM 4-3-1-0 | 3<sup>rd</sup> Read 19-11-0-0

## **SB 1195: liquor; sales; delivery; original packaging**

**Sponsor: Senator Borrelli, LD 5**

**Committee on Commerce**

### **Overview**

Exempts containers of spirituous liquor for delivery from labeling requirements if certain criteria are met.

### **History**

A retail licensee with off-sale privileges may sell and deliver spirituous liquor off of the licensed premises to a person in Arizona. The licensee may maintain a delivery service and may contract with an independent contractor or a common carrier for delivery of spirituous liquor. An employee of a licensee or other authorized person must verify the age of the person accepting the delivery through the display of an identification document and receive the person's signature. A licensee must label containers of spirituous liquor delivered to a person in Arizona with the words, "contains alcohol, signature of person who is twenty-one years of age or older is required for delivery." The licensee is responsible for any violations of the requirements for the sale and delivery of spirituous liquor (A.R.S. § 4-203).

### **Provisions**

1. Exempts, from the delivered spirituous liquor labeling requirement, containers of spirituous liquor that are in the manufacturer's original packaging and either:
  - a) Kept plainly visible during transport and delivery; or
  - b) The person delivering the order has personally retrieved and bagged or otherwise packaged the container for delivery and the licensee records the identification information for each delivery. (Sec. 1)
2. Makes a technical change. (Sec. 1)

☐ Prop 105 (45 votes)    ☐ Prop 108 (40 votes)    ☐ Emergency (40 votes)    ☐ Fiscal Note



**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-fourth Legislature - Second Regular Session**

**ROLL CALL VOTE**

COMMITTEE ON Commerce BILL NO. SB 1195

DATE May 19, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler			✓		
Chávez			✓		
Epstein			✓		
Kern	✓			✓	
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		5	3	1	0

APPROVED:

  
\_\_\_\_\_  
JEFF WENINGER, Chairman  
TRAVIS W. GRANTHAM, Vice-Chairman

  
\_\_\_\_\_  
COMMITTEE SECRETARY

ATTACHMENT 5

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1195

Dear Representative,

On behalf of Shipt, Inc., I encourage your support of SB 1195 on the House floor. SB 1195 creates a narrow exception to current alcohol labeling requirements for home delivery to create a more efficient delivery process that provides additional safeguards against underage deliveries. In the age of COVID, grocery delivery is a critical service to Arizona residents, especially vulnerable populations. This bill makes delivery easier for stores, delivery drivers, and consumers while still providing safeguards for ensuring delivery to adults over the age of 21 that are more effective than a paper label. A label on the outside of a grocery bag, a bottle of wine, or a six-pack of beer has questionable value in terms of preventing delivery to minors. Paper labels are logistically difficult for a company to provide to an out-of-state workforce, and for companies to ensure that the labels are being used correctly, which increases the risk of a violation for an operational technicality that does little to protect public health and safety. SB 1195 is a reasonable accommodation to address this issue while maintaining public safety.

Shipt is a grocery delivery service that operates in over 70 markets across the country. They pride themselves on being an industry leader in delivery compliance with state law, particularly in ensuring that deliveries are only made to adults over the age of 21 and to a safe environment. Delivery drivers are required to comply with all aspects of Arizona law, including identification requirements for any order that contains alcohol. Current law is explicitly clear—deliveries can only be made to an adult over the age of 21 who can provide the approved identification, and Ariz. Admin. Code 19-1-504 requires delivery carriers to collect and retain, among other things, the “[t]ype of and number on the identification used to verify the individual’s date of birth.” Should delivery drivers fail to comply with these laws, not only can the driver be personally responsible but the retailer who sold the product can ultimately lose their liquor license to sell these products in the first place. While at least 34 states allow for home delivery of alcohol, Arizona is one of only two states (Virginia is the other) to enact a broad labeling requirement for these deliveries. Arizona law requires a label on ALL containers of alcohol if it is being delivered.

SB 1195 creates an narrow exemption from this labeling requirement for circumstances where:

- (1) The alcohol is in its original packaging and is unobscured or
- (2) the person delivering the order also shopped and packaged that order, and the ID information is recorded electronically at the time of delivery.

These provisions address concerns raised that a delivery driver may inadvertently deliver alcohol he or she did not know was in the order, and provide a record for the Department of Liquor that identification laws were complied with before the delivery was completed. A responsible retailer or delivery company will ensure far more notice and compliance checks than labeling alone. In Shipt’s case, the delivery driver has been trained on compliance with state liquor laws before being eligible to fulfill an order that contains alcohol, the driver personally shops the order and selects the product from the shelves and makes the

purchase, and the driver must comply with identification recording requirements per state law before the transaction can be completed in the Shipt App. Shipt also maintains a command center in its main headquarters in Birmingham, Alabama where these transactions are monitored in real time to ensure delivery is made lawfully. We recognize that all companies may not be this diligent with their deliveries. Nothing in this bill prevents a retailer or delivery company from continuing to use a label or other method of ensuring a delivery driver knows there is alcohol in the order and ID requirements are complied with.

Again, the default of the law even after this bill is that a label is required unless an order meets one of these two exceptions. A retailer could continue to label if it chooses to. This bill simply eliminates that cumbersome requirement where additional safeguards exist. The retailer who sells the alcohol is ultimately responsible if the alcohol is delivered to minors, as is the person who delivered it. Records are kept so the Department of Liquor could ask any any time to see the ID information from a particular transaction.

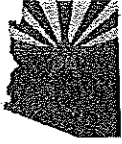
I know that time is limited and meetings are difficult under the circumstances. I would be happy to meet with you or do a call to discuss any questions or concerns that you may have. I respectfully encourage your YES vote on SB1195.

Respectfully,

*Cheyenne Walsh*



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# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature  
Second Regular Session

Senate: GOV DPA 6-1-0-0 | 3<sup>rd</sup> Read 16-13-1-0

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## **SB 1133: public works; contracts; payment**

**Sponsor: Senator Gray, LD 21**

**Committee on Commerce**

### **Overview**

Prescribes requirements for payment of contractors and subcontractors for changed or additional work in construction contracts with certain governmental entities.

### **History**

Progress payments may be made to the contractor on the basis of a duly certified and approved estimate of the work performed. Progress payments must be paid within 14 days after the estimate of work is certified and approved. The estimate of work is deemed approved and certified 7 days after the date of submission unless the owner prepares and issues a specified written finding detailing those items in the estimate that are not approved and certified under the contract. In any delay of payment to the contractor, interest at the rate of 1% per month may be added on the unpaid balance (A.R.S. § 41-2577).

### **Provisions**

1. Permits a contractor directed to perform changed or additional work by ADOT or a governmental entity, pending a final determination of the total amount to be paid, to request payment for the changed or additional work that the contractor completed during the preceding calendar month in monthly pay estimates based on the costs incurred by the contractor. (Sec. 3, 4, 5, 7)
2. Allows a subcontractor directed to perform changed or additional work by the contractor, pending a final determination of the total amount to be paid, to request payment for changed or additional work that the subcontractor completed during the preceding calendar month in monthly pay estimates based on the costs incurred by the subcontractor. (Sec. 3, 4, 5, 7)
3. Requires the person designated in the construction contract to certify and approve the monthly payment estimate to:
  - a) Make an interim determination for approval for payment of the costs of changed or additional work; and
  - b) Certify the amount the person determines to be reasonably justified. (Sec. 3, 4, 5, 7)
4. Allows a party to disagree with the interim determination and assert a claim in accordance with the terms of the construction contract or the agreement between the contractor and subcontractor. (Sec. 3, 4, 5, 7)
5. Stipulates in any action or arbitration relating to payment for changed or additional work, the successful party is awarded reasonable attorney fees and costs. (Sec. 3, 4, 5, 7)
6. Defines *construction contract*, *contractor*, *cost*, *subcontractor* and *work*. (Sec. 3, 4, 5, 7)
7. Requires rules adopted by the State Board of Education for procurement of construction projects for school districts to comply with prompt payment requirements, unless external funding has not yet been received. (Sec. 2)

8. Requires ABOR's adopted procurement policies and procedures to be substantially equivalent to prompt payment requirements.
  - a) Excludes the judicial branch from this requirement. (Sec. 6)
9. Makes technical and conforming changes. (Sec. 1, 3, 4, 5, 6, 7)

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1133

(Reference to Senate engrossed bill)

- 1 Page 10, line 12, after "CONTRACTOR" insert "IN WRITING"
- 2 Line 13, after "CONTRACT" insert "AND THE CONTRACTOR SUBMITS TO THE DEPARTMENT
- 3 A REASONABLE COST ESTIMATE OF THE CHANGED OR ADDITIONAL WORK WITHIN TWO
- 4 BUSINESS DAYS"
- 5 Line 25, after "CONTRACTOR" insert "IN WRITING"
- 6 Page 15, line 27, after "CONTRACTOR" insert "IN WRITING"
- 7 Line 28, after "CONTRACT" insert "AND THE CONTRACTOR SUBMITS TO THE OWNER A
- 8 REASONABLE COST ESTIMATE OF THE CHANGED OR ADDITIONAL WORK WITHIN TWO
- 9 BUSINESS DAYS"
- 10 Line 40, after "CONTRACTOR" insert "IN WRITING"
- 11 Page 20, line 29, after "CONTRACTOR" insert "IN WRITING"
- 12 Line 30, after "CONTRACT" insert "AND THE CONTRACTOR SUBMITS TO THE OWNER A
- 13 REASONABLE COST ESTIMATE OF THE CHANGED OR ADDITIONAL WORK WITHIN TWO
- 14 BUSINESS DAYS"
- 15 Line 42, after "CONTRACTOR" insert "IN WRITING"
- 16 Page 28, line 19, after "CONTRACTOR" insert "IN WRITING"
- 17 Line 20, after "CONTRACT" insert "AND THE CONTRACTOR SUBMITS TO THE OWNER A
- 18 REASONABLE COST ESTIMATE OF THE CHANGED OR ADDITIONAL WORK WITHIN TWO
- 19 BUSINESS DAYS"
- 20 Line 32, after "CONTRACTOR" insert "IN WRITING"
- 21 Amend title to conform

JEFF WENINGER

1133WENINGER  
03/12/2020  
02:17 PM  
H: PRB/lis

Attachment 8

Adopted _____	# of Verbals _____
Failed _____	Withdrawn _____
Not Offered <u>X</u>	Analysts Initials _____

**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-fourth Legislature - Second Regular Session**


**ROLL CALL VOTE**

COMMITTEE ON Commerce BILL NO. SB 1133

DATE May 19, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler			✓		
Chávez		✓			
Epstein				✓	
Kern	✓			✓	
Meza			✓		
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		5	2	2	0

APPROVED:

  
JEFF WENINGER, Chairman  
TRAVIS W. GRANTHAM, Vice-Chairman

  
COMMITTEE SECRETARY

ATTACHMENT 9

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB1133

Good Afternoon Mr. Chairman and Members,

Thank you for the opportunity to submit testimony for today's Commerce Committee meeting on SB 1133 public works; contracts; payment (Gray). Prior to the suspension of session, an amendment had been agreed upon and posted for Committee on March 17, 2020. This amendment clarified that all change orders must be in writing and that the contractor is required to provide an estimate of the cost for review within two business days. Unfortunately, the committee hearing was canceled, and we have been informed that the plan is to move the bill forward without the amendment so it does not have to go back to the Senate for concurrence.

Without the amendment, there is *nothing* that requires the contractor to provide some sort of estimate of work within a reasonable time frame, which will push more and more work into a force account situation, driving up overall project costs. While the final determination is pending it is critical that the owners receive some sort of estimate of cost for the changes. Proceeding without an estimate puts the owner in an untenable situation where they will not have enough information to make an educated decision on the work necessary to complete the change order, the ability to make adjustments if necessary, or ability to communicate the potential cost quickly. **Moving this bill forward in its current form puts already limited public resources at risk.**

When the proponents moved the bill out of the Senate we were reassured that they would continue to work with us to come to an agreement. As stewards of public funds our goal was to find a balance between allowing subcontractors to add work performed on a change order into the normal project payment schedule without jeopardizing our ability to properly manage project costs.

We have been working in good faith with the proponents over the last two sessions and the posted amendment would have brought us to neutral on the bill (2019 - SB 1285). While we can appreciate the proponents desire to press on, without adopting the already agreed upon changes due to this new window available to move bills, doing so will damage our ability to be effective stewards of public funds.

The proponents have recently said there is nothing that says we cannot simply modify our contracts to require an estimate for change orders. That is true, luckily we were able to get the bill amended in the Senate to say everything needs to be done in accordance with the construction contract, but we ONLY have a contract with the contractor NOT the subcontractors.



Since owners don't have a contract with the subcontractor we may be able to get creative by adding in stipulations that the contractor must follow when entering contracts on the project with a subcontractor by requiring estimates be provided in a reasonable timeframe. However, anything can be taken out of a contract with negotiations. Moving forward without the agreed upon amendment adds additional complexity to an already complex process and place additional burdens on already limited staff resources, especially for our rural communities.

Please vote NO on SB 1133 unless the critical protections offered in the agreed upon amendment is added on to the bill. **The amended version strikes the appropriate balance - it ensures subcontractors are able to recoup their costs quickly on change orders and provides transparency on the overall cost to the public for those changes.** Unfortunately, without the amendment it will become increasingly difficult for the owner to make well informed decisions and ultimately drive up the costs of public projects.

Thank you for your consideration.

Robin Hillyard  
Legislative Research Program Manager  
County Supervisors Association of Arizona  
1905 W. Washington St., Ste. 100  
Phoenix, Arizona 85009  
602-452-4504 (direct)  
480-620-9238 (cell)  
[RobinH@countysupervisors.org](mailto:RobinH@countysupervisors.org)  
[www.countysupervisors.org](http://www.countysupervisors.org)

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1133

Dear Representative,

On behalf of the Associated Specialty Contractors made up of trade groups in the life safety subcontractors' community **we ask that you vote for SB 1133 (public works; contracts; payment) in the House Commerce Committee on May 19th.**

The bill allows a contractor or subcontractor directed to perform changed or additional work (aka change orders) by the contractor or owner of a public works project, pending a final determination of the total amount to be paid, to request payment for changed or additional work that the subcontractor completed during the preceding calendar month in the regular monthly pay estimates based on the costs incurred by the subcontractor.

It further provides the person designated in the construction contract to certify and approve the monthly payment estimate to make an interim determination for approval for payment of the costs of changed or additional work and certify the amount the person determines to be reasonably justified. **It also allows a party to disagree with the interim determination and assert a claim in accordance with the terms of the construction contract or the agreement between the contractor and subcontractor.**

In the past the lack of the ability to request payment for change orders has resulted in some subcontractors not getting paid for those change orders which can be a significant amount. In a few cases the failure to receive payment has resulted in the subcontractor filing for bankruptcy or going out of business. **This function of prompt pay will protect the subcontractors from failure of a public works project from properly paying for work for change orders performed.**

As a result of the stakeholder meetings while the bill was being considered in the Senate proponents agreed to several significant amendments to protect political subdivisions including cities, counties, schools and universities. Those changes are reflected in the Senate Engrossed version.

Following passage in the Senate the public sector stakeholders requested an additional amendment requiring submission to the contractor or owner of a reasonable cost estimate of the changed or additional work within two business days. We agreed to that request and it would have been offered as a Committee or floor amendment in the House. That is now not possible.

**We have committed to Chairman Jeff Weninger and bill sponsor Senator Rick Gray that we will seek that language in legislation in the next regular session to add this provision.** We will also ask that our constituents administratively apply the proposed cost estimate provision as a normal course of business.

**We remain committed to our public sector stakeholder partners to continue to modify and improve upon the language in the bill in the future. This process is a marathon and not a sprint. The passage of this bill is the appropriate and necessary step to take and we ask you to support and vote for it.**

Thanks and best regards,

Barry M. Aarons  
The Aarons Company LLC  
Cell: 602 315 0155

Submitted Testimony  
Additional  
Commerce Committee  
May 19, 2020  
SB 1133

Folks,

While the additional amendment that all parties agreed to requiring an estimated cost on any change order be submitted within two days will not be considered, the opinion of sponsor Senator Gray and our opinion is that even if the amendment is not included nothing stops political subdivisions from putting that language in their construction contracts.

Our intention, if the bill is enacted, is to require that of our members and further come back in the next session with legislation to codify it.

We hope you take that into consideration as the process moves forward.

Regards,

Barry

Barry M. Aarons  
The Aarons Company LLC  
Cell: 602 315 0155

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1133

Honorable Members of the House Commerce Committee,

On behalf of the American Subcontractors Association of Arizona, Arizonans for Fair Contracting, and the Arizona State Contractors Coalitions, I am writing to request your support for SB 1133 (public works; contracts; payment).

SB 1133 will strengthen prompt pay laws by outlining the requirements for payment of contractors and subcontractors for changed or additional work (i.e. "change orders") in public construction contracts with government entities.

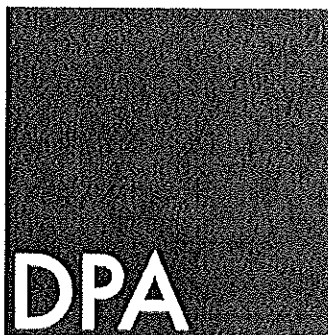
While an additional amendment that all parties agreed to requiring an estimated cost on the change order to be submitted within two days will not be considered, our opinion is that even if the amendment is not included nothing stops political subdivisions from putting that language in their construction contracts.

SB 1133 is the successful result of a number of stakeholder discussions and the essential components to successfully strengthen our prompt pay laws are in place.

Arizona's subcontractors support SB 1133, and stand ready to make any necessary additional enhancements to the law in the future.

Please vote YES on SB 1133.

Thank you.



Ryan DeMenna

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DeMenna Public Affairs

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB1133

Chairman Weninger,

The League of Arizona Cities and Towns respectfully requests a NO vote on SB1133 public works; contracts; payment. It was brought to our attention that the amendment in your name will not be offered in committee, which was the product of a stakeholder process with the proponents to balance the need for subcontractors to have a streamlined process for requesting and receiving payment on work they completed without putting public monies at risk.

Prior to the suspension of session, the bill was scheduled to be heard in the Commerce Committee with the amendment and the League was prepared to honor our agreement with the proponents to be neutral on the bill. The amendment would require that all change orders on public construction jobs to be in writing – a very important revision that will reduce the likelihood of costly disputes with contractors and subcontractors and unnecessary delays over contested work as the expectation of all parties will be in writing. It would also require contractors and subcontractors to submit within two business days a cost estimate for changed or additional work so that cities and towns can make the best financial decisions for public construction projects and use tax dollars efficiently.

While we understand we are in unique circumstances, the situation does not require the bill to proceed this session in its unamended form. We request the proponents honor the agreement they made to amend this bill with these important revisions and offer it in a complete package that can be approved in the next session. This will ensure cities and towns can properly implement the law without risking taxpayer dollars and avoid costly disputes.

Thank you,

Tom Savage  
League of Arizona Cities and Towns  
1820 W. Washington Street  
Phoenix, Arizona 85007  
Office: (602) 258-5786  
Cell: (916) 806-0205  
[tsavage@azleague.org](mailto:tsavage@azleague.org)



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature  
Second Regular Session

Senate: FIN 8-0-2-0 | 3<sup>rd</sup> Read 25-4-1-0

## **SB 1335: tourism marketing authorities**

**Sponsor: Senator Pace, LD 25**

**Committee on Commerce**

### **Overview**

Allows for the formation of a tourism marketing authority (Authority).

### **History**

The Arizona Office of Tourism (AOT) is responsible for promoting and developing tourism in Arizona. The AOT is led by a director, appointed by the governor, along with an assistant director chosen by the director with the governor's approval. The director must have at least five years of management experience in the tourism and travel industry, understanding of the technical elements of the tourism industry, and experience in marketing or public relations. The director is responsible for promoting and developing tourism business, conducting a marketing campaign on the attractions of the state, and promoting this information through state, national and international media (A.R.S., Title 41, Chapter 19).

### **Provisions**

#### ***Tourism Marketing Authority (Sec. 1)***

1. Enables, by a petition, the governing body of one or more municipalities or one or more municipalities and a county with a population of less than two million persons to adopt a resolution forming a tourism marketing authority.
  - a) Specifies the contents of the petition.
2. Stipulates the governing body of each participating municipality and county by affirmative vote may approve the formation of the Authority if a petition is signed by the owners of at least 67% of the transient lodging rooms within the Authority which includes two or more properties with transient lodging rooms.
3. Prescribes the powers and duties of each governing body of a participating municipality and county of an Authority which include levying an assessment of not more than \$5 dollars per room sold per night on the transient lodging rooms in the Authority.
4. Requires the transient lodging room owner to pay the assessment to the Arizona Department of Revenue (DOR) at the same time as paying the transaction privilege tax.
5. Directs DOR to report the amount of monies collect from the assessment to the State Treasurer.
6. Requires the State Treasurer to transmit to the participating municipality or county treasurer's the amount collected from properties within the Authority.
  - a) Defines the municipal location of a property in the Authority.
7. Directs DOR to separately account for the monies paid and deposit the net revenues collected into the state General Fund.

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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8. Requires the board of an Authority and any participating municipality or county to supply DOR and the State Treasurer with all requested information necessary relating to the administration of the assessment.
9. Requires an Authority be governed by the board of directors of the recognized tourism promotion agency with at least one member of one or more of the governing bodies participating in the Authority.
10. Permits the Authority to:
  - a) Employ staff and consultants;
  - b) Reimburse a municipality or county for staff, services and facilities;
  - c) Enter into contracts; and
  - d) Accept Grants.
11. Prohibits an Authority from financing or facilitating the acquisition, maintenance, construction or operation of a hotel, motel, resort or other transient lodging or any sports or entertainment facility.
12. Requires an Authority and its board of directors to maintain the records of the Authority.
13. Requires an Authority and its board of directors to keep monies and operations separate from the tourism promotion agency's other monies and activities.
14. Directs the board of an Authority to comply with public meetings and public records laws.
15. Requires the board of an Authority to report to the governing bodies at least annually on activities and expenditures and the impacts of the expenditures and activities.
16. Outlines the criteria for terminating an Authority by the owners of the transient lodging rooms.
17. Terminates an Authority 10 years after formation unless renewed by petition.
18. Provides criteria for renewing an Authority and modifying its boundaries.
  - a) Allows for an additional 10-year renewal.

**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-fourth Legislature - Second Regular Session**

**ROLL CALL VOTE**

COMMITTEE ON Commerce BILL NO. SB 1335

DATE May 19, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci				✓	
Butler		✓			
Chávez		✓			
Epstein		✓		✓	
Kern	✓				
Meza		✓			
Roberts	✓	✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		7	0	2	0

APPROVED:

  
\_\_\_\_\_  
JEFF WENINGER, Chairman  
TRAVIS W. GRANTHAM, Vice-Chairman

  
\_\_\_\_\_  
COMMITTEE SECRETARY

ATT Attachment 15



Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1335

Dear Representative,

Please support Arizona Senate Bill 1335 (SB1335) which is enabling legislation that would allow tourism marketing authorities (TMAs) to be created in all municipalities regardless of population and/or counties with populations of less than two million throughout the state.

The Sedona Chamber of Commerce & Tourism Bureau, representing almost 900 business, supports this initiative. This would allow Sedona to achieve funding to help achieve a more level playing field with more than 180 municipalities that are already using TMAs to attract and manager visitors to their area. In light of the current Covid-19 pandemic, this legislation would also allow for us to diversify our funding sources. For us, we need these funds to help manage the more than 3 million visitors who embark on our city each year.

This legislation is also supported by our Sedona Lodging Council, which represents Sedona's lodging sector and our nearly 4,000 rooms. This is broad grassroots-supported funding mechanism would help us augment our existing programs of work and support Sedona's tourism industry and the 10,000 jobs that rely on it.

Please consider supporting this Bill.

Thank you!

**Jennifer Wesselhoff** President/CEO, CDME  
**Sedona Chamber of Commerce & Tourism Bureau**  
928.204.1123 (ext. 111)  
[SedonaChamber.com](http://SedonaChamber.com) | [VisitSedona.com](http://VisitSedona.com)  
[Take the Sedona Cares Pledge](#)

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1335

Good evening members of the House Commerce Committee,

On behalf of Barry M. Aarons, myself and our clients - Visit Tucson, Visit Mesa, Visit Phoenix and Experience Scottsdale - we ask that you support SB1335: Tourism Marketing Authorities and that these remarks be entered into the record.

SB1335 has no stakeholder opposition and rather overwhelming support from the tourism industry, cities, counties, the Greater Phoenix Chamber, the Arizona State Chamber and many more (see attached endorsement page and one pager). We ask for you to please **VOTE YES ON SB1335!**

This legislation would enable the industry, in collaboration with county and municipal governments, to establish Tourism Marketing Authorities (TMAs). TMAs would empower the visitor industry to create necessary revenue for tourism marketing and promotion – and only for marketing and promotion, as capital expenditures are specifically prohibited in the bill – through a per room, per night assessment on transient lodging.

**Passage of this bill now, however, has become a dire necessity.**

COVID-19 has been disproportionately devastating to the tourism and hospitality/service industry. Hundreds of hotels and attractions have closed. (A link showing the volume within our industry that cancelled or closed is available [HERE](#).) Thankfully this list also reflects those that are beginning to reopen. But it will be a slow process.

As is to be expected with this crisis, our destination marketing organizations' funding mechanisms for promotional activities will be woefully lacking over the next six to 12 months. As the state considers various strategies to reinvigorate Arizona's economy, SB 1335 will be the most significant tool to assist our industry in our recovery.

Here's how SB 1335 works.

- It is enabling legislation that allows for a minimum of 67% of hoteliers (weighted by room) to petition a municipality county or combination of political subdivisions to create a Tourism Marketing Authority in a designated geographic area.
- The political subdivision(s) would then contract with a recognized 501.C.6 Destination Marketing Organization.

- Each hotel in the authority would then be authorized a per room per night assessment of \$0 - \$5 on rooms sold as clearly defined in the petition and approved by the political subdivision.
- All monies then would be collected in the same manner as their existing bed tax and remitted back to the local jurisdiction. Those dollars would be passed to the Tourism Marketing Authority for tourism and marketing promotion.
- There is oversight and accountability requirements built into the bill to ensure that the dollars are properly used to help drive more visitors to the destination.
- The TMA can-not be created without an affirmative vote by the political subdivision(s) that governs the designated geographical boundaries of the authority.
- The TMA can also be dissolved if 51% of hoteliers (weighted by room) petition the political subdivision for dissolution.

Currently around the US, there are 14 states and over 180 jurisdictions that have similar tourism authorities or districts. Those destinations are better prepared to commence their recovery. We should do what is necessary to allow our tourism industry to be in the strongest competitive position possible. SB 1335 gives us that tool.

**Please vote yes on SB1335!**

Laura Magnus  
Magnus Public Policy  
Owner / Lobbyist  
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Email: [laura@magnuspolicy.com](mailto:laura@magnuspolicy.com)



## Arizona Senate Bill 1335—2020 Legislative Session

Tourism Marketing Authorities – Public-Private Partnership

Updated: March 4, 2020

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### Strong Industry Support

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## Arizona Senate Bill 1335—2020 Legislative Session

### Tourism Marketing Authorities – Public-Private Partnership

**Arizona Senate Bill 1335 (SB1335)** is enabling legislation that would allow tourism marketing authorities (TMAs) to be created in all municipalities regardless of population and/or counties with populations of less than two million throughout the state, putting Arizona communities on a more level playing field with more than 180 municipalities that are already using TMAs to attract visitors, meetings and events.

Through an assessment on sold hotel and resort guest rooms, hoteliers would remit revenue to the Arizona Department of Revenue (ADOR), which would allocate it to the applicable municipalities and/or counties. Then, the revenue would be passed through to TMAs.

Destination marketing organizations (DMOs) in jurisdictions with TMAs would use the money for new sales, marketing and promotional projects that augment their existing programs of work. Details are spelled out in SB1335, along with fact sheets generated by the Arizona Lodging & Tourism Association and DMOs throughout Arizona.



### Benefits

- **More visitors and visitor dollars** to participating communities.
- **More state, county and municipal tax revenue** from visitors.
- **More visitor revenue** to pay for Arizona education, public safety and health care.
- **More jobs**—adding to Arizona's 192,000 existing travel-related jobs.
- New visitor **marketing**, sales and promotion tailored to the needs of participating communities.
- **Hoteliers vote** on this assessment and have input on how the dollars are invested.
- **Accountability**—DMO boards oversee TMAs, DMOs provide performance reports to participating local/county governments, TMA funds are segregated from other DMO revenue to enhance oversight.
- **SB1335** is enabling legislation. DMOs have to come together with area hoteliers and local/county governments through a petition process to proceed. Communities that do not want to create a TMA are not compelled to do so.

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1335

Representatives,

I respectfully urge your support of SB1335. This enabling legislation is one that will allow the hospitality industry to help itself in the wake of the COVID-19 pandemic and beyond. This legislation will allow communities to form an authority and augment the course of tourism and visitation with less reliance on local and state governments. This legislation allows those communities that wish to create a TMA to develop marketing, sales and promotion tailored to the needs of the participating community.

Arizona must be able to compete in attracting visitors, meetings and events, with the more than 180 municipalities that are already using TMAs. Industry experts agree that communities with TMAs in place will recover from disaster faster than those that don't.

Please support the effort to bring more state, county and municipal tax revenue from visitors to our state. Please support more jobs for Arizonans. Please support more visitor revenue to pay for Arizona education, public safety and health care.

Respectfully,

Linda Morgan

***Linda Morgan***

Executive Director

Visit Yuma

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# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature  
Second Regular Session

Senate: HHS 7-0-1-0 | 3<sup>rd</sup> Read 30-0-0-0

## **SB 1373: automated prescription-dispensing kiosks; permits**

**Sponsor: Senator Pace, LD 25**

**Committee on Commerce**

### **Overview**

Establishes requirements for an automated prescription-dispensing kiosk (Kiosk) permit.

### **History**

The Arizona State Board of Pharmacy (Board) regulates the practice of pharmacy and the distribution, sale and storage of prescription medications, prescriptive devices and nonprescription medications (A.R.S. § 32-1904).

Subject to approval by the Board, a person who holds a permit to operate a pharmacy, drug manufacturing facility or wholesaling facility may apply to the Board for a permit to operate an automated prescription-dispensing kiosk. An automated prescription-dispensing kiosk permit applies to a single automated prescription-dispensing kiosk; therefore, the person must obtain a separate permit for each to be operated. Additionally, the person must establish policies and procedures to ensure appropriate performance and use of the automated prescription-dispensing kiosk. An automated prescription-dispensing kiosk may not: 1) contain or dispense controlled substances; or 2) be placed in a gas station or convenience store (A.R.S. §§ 32-1929 and 32-1930; A.A.C. R4-23-677).

To renew an automated prescription-dispensing kiosk permit, a person must submit a completed permit renewal application electronically or manually on a form furnished by the Board with a \$480 biennial renewal fee (A.A.C. R4-23-205 and R4-23-602).

An *automated prescription-dispensing kiosk* is a mechanical system that: 1) is operated as an extension of a pharmacy; 2) maintains all transaction information within the pharmacy operating system; and 3) is separately permitted from the pharmacy. The automated prescription-dispensing kiosk performs operations that either: 1) accept a prescription or refill order, store prepackaged or repackaged medications, label and dispense patient-specific prescriptions and provide counseling on new or refilled prescriptions; or 2) dispense or deliver a prescription or refill that has been prepared by or on behalf of the pharmacy that oversees the automated prescription-dispensing kiosk (A.R.S. § 32-1901).

### **Provisions**

#### ***Automated Prescription-Dispensing Kiosk (Sec. 1)***

1. Requires a person to apply to the Board for a permit to operate a Kiosk.
2. Specifies the Kiosk be operated as an extension of the pharmacy responsible for operating the Kiosk.
3. Specifies the pharmacy remains responsible for inventory control and billing for the medications dispensed from the Kiosk.

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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4. Directs a person to apply for a separate permit for each Kiosk.
5. Requires, as part of an initial automated prescription-dispensing kiosk permit application, an agreement between the applicant and the tenant of the intended location of the kiosk to demonstrate intent to place the kiosk at such location.
6. Specifies the agreement to clearly indicate intent to locate the Kiosk at the designated location in the application and may be any of the following:
  - a) A letter of intent;
  - b) An electronic communication; or
  - c) A formal letter of agreement;
7. Requires a label on the container of a prescription filled by a Kiosk to identify the address of the pharmacy responsible for the Kiosk.
8. Specifies the location of the Kiosk may be on the label affixed to the prescription container or in patient materials provided with the dispensed medication.
9. Requires each container filled by the Kiosk to include a prescription number maintained by the responsible pharmacy that contains information about the prescription dispensed, including the location of the Kiosk.
10. Mandates a Kiosk permittee to comply with all provisions requiring registration of a Kiosk.

***Miscellaneous***

11. Specifies a Kiosk that is approved by the Board prior to August 3, 2018 and that is required to obtain a permit is not required to provide information as required by this Act.
12. Requires the Board to issue a permit to any Kiosk that was approved prior to August 3, 2018 and that has submitted an application permit.



**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-fourth Legislature - Second Regular Session**

**ROLL CALL VOTE**

COMMITTEE ON Commerce BILL NO. SB 1373

DATE May 19, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez		✓			
Epstein		✓		✓	
Kern					
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		8	0	1	0

APPROVED:

  
\_\_\_\_\_  
JEFF WENINGER, Chairman  
TRAVIS W. GRANTHAM, Vice-Chairman

  
\_\_\_\_\_  
COMMITTEE SECRETARY

ATTACHMENT 20

**Testimony to the House Committee on Commerce**

**SB 1373 - automated prescription-dispensing kiosks**

Submitted by Stuart Goodman, Goodman Schwartz Public Affairs  
on behalf of MedAvail Technologies

1. The Arizona Legislature authorized the use of automated prescription-dispensing kiosks in 2018.
2. Automated prescription-dispensing kiosks, which are regulated by the Arizona Board of Pharmacy, allow consumers to have increased access to filling their prescriptions either in underserved areas or during times in which the pharmacy is closed.
3. This link provides a brief YouTube video describing the operation of a typical automated prescription-dispensing kiosk: <https://www.youtube.com/watch?v=ojMqJGyBZic>.
4. As with any new regulatory program, there are going to be implementation challenges associated with the deployment of new technology. Over the last two years, approximately 12 kiosks have been permitted by the Pharmacy Board.
5. The permitting process has matured considerably since it started in 2018. As a result, the automated prescription-dispensing kiosk industry and the Pharmacy Board have agreed to various requirements in the permitting process that are in the best interest of the public as well as the industry operating in Arizona.
6. SB 1373 codifies Pharmacy Board policy, guidance and clarifies other aspects of the permitting process in order to provide both the regulated community as well as the Pharmacy Board with a predictable and reliable path to obtaining and issuing permits. Public safety remains paramount to all interests involved in the development of SB 1373.
7. The codification of the permit process is focused on establishing predictability and reliability, regardless of any staff turnover within the industry or Pharmacy Board. Under the existing situation, if the director or senior staff were to leave the agency, the industry would be potentially vulnerable to new and random permit requirements. Likewise, as industry personnel change, the Pharmacy Board would have potential challenges associated with the loss of institutional knowledge relating to prior industry commitments.
8. In addition to establishing predictability and reliability in the permitting process of automated prescription-dispensing kiosks, SB 1373 is well-positioned to contribute to the desired social distancing strategies associated with the Coronavirus. In fact, South Carolina issued the attached Emergency Order for automated prescription-dispensing kiosks as part of its response to the Coronavirus.
9. While it is appreciated and respected that each legislative chamber is unique, SB 1373 did pass out of the Senate with a 30-0 vote.

Thank you, in advance, for your consideration.

**GOODMAN • SCHWARTZ**  
PUBLIC AFFAIRS



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Columbia, SC 29211-1927  
Phone: (803) 896-4700  
FAX: (803) 896-4596

South Carolina  
Department of Labor, Licensing and Regulation

Board of Pharmacy



Henry D. McMaster  
Governor

Emily H. Farr  
Director

**PUBLIC HEALTH STATE OF EMERGENCY ORDER 2020-BOP-PH-05**

**ORDER PROVIDING TEMPORARY AUTHORIZATION  
FOR USE OF AUTOMATED PHARMACY PICKUP KIOSKS**

**WHEREAS**, on March 13, 2020, Governor Henry McMaster issued Executive Order No. 2020-08 declaring a public health emergency due to the evolving nature and scope of the public health threat or other risks posed by COVID-19 and the actual and anticipated impacts associated with the same;

**WHEREAS**, Governor McMaster has issued subsequent Executive Orders in which he has taken additional action to protect the citizens of South Carolina, including Executive Order No. 2020-10, which "authorize[d] and direct[ed] any agency within the undersigned's Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or 'suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency,' [ . . .];"

**WHEREAS**, the Board of Pharmacy requires permittees seeking to utilize new technology in the practice of pharmacy to appear before its Practice and Technology Committee to present an overview of the proposed use of new technology;

**WHEREAS**, the Practice and Technology Committee has previously heard requests for permittees to utilize automated pharmacy pickup kiosks and locker systems, such as those produced by iLocalBox and ScriptCenter;

**WHEREAS**, the Board, acting upon recommendations of the Practice and Technology Committee, has authorized the use of such automated pickup kiosks, certain to subject conditions;

**WHEREAS**, the Board finds that the use of automated pickup kiosks will reduce face-to-face contact between the members of the public and pharmacy personnel and will aid in social distancing; and

**WHEREAS**, the Board concludes that the benefit of additional methods of social distancing, coupled with reports indicating the devices have been used successfully in previously-

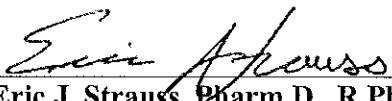
approved pilot projects, outweighs the need for the Practice and Technology Committee to consider the devices at this time;

**NOW, THEREFORE**, for the reasons set forth above, effective immediately, the Board hereby temporarily authorizes its permittees to utilize automated pharmacy pickup kiosks without first appearing before the Practice and Technology Committee or the Board. This Order shall be limited to the use of models of automated pharmacy pickup kiosks previously approved by the Board, such as those produced by iLocalBox and ScriptCenter. Permittees electing to utilize these pickup kiosks must notify the Board Administrator and comply with all applicable provisions of the Pharmacy Practice Act and all other applicable laws, including any requirements regarding controlled substances imposed by the Department of Health and Environmental Control ("DHEC"). Permittees electing to utilize these pickup kiosks must also document any errors resulting from the use of the pickup kiosks and shall appear before the Board within six months of the lifting of the declaration of a public health state of emergency. This Order shall remain in effect for the duration of the declared public health state of emergency, unless otherwise modified, amended, or rescinded by subsequent order.

**IT IS SO ORDERED.**

**STATE BOARD OF PHARMACY**

March 23, 2020

  
Eric J. Strauss, Pharm.D., R.Ph.  
Board Chair



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature  
Second Regular Session

Senate: GOV DP 6-0-1-0 | 3<sup>rd</sup> Read 30-0-0-0

## **SB 1510: public contracts; payment methods**

**Sponsor: Senator Livingston, LD 22**

**Committee on Commerce**

### **Overview**

Adds an assignment of money market account and demand deposit accounts as a substitute for the retention of pay estimates.

### **History**

Statute requires a construction contract include a provision that 10% of all estimates be retained as a guarantee for complete performance. In lieu of the required retention and at the option of the contractor, the agent must accept as a substitute an assignment of time certificates of deposit, securities of the U.S., this state, counties, municipalities and school districts, or shares of savings and loan associations in an amount equal to 10% of all estimates. The contractor is entitled to receive all interest or income earned by such security as it accrues. (A.R.S. § 34-211).

*Agent* is defined as: 1) any county, city or town, or officer, board or commission of any county, city or town, and irrigation, power, electrical, drainage, flood protection and flood control districts, tax levying public improvement districts and county or city improvement districts; and 2) Includes any county board of supervisors and any representative authorized by an agent to act as an agent for the purpose of authorizing necessary change orders to previously awarded contracts in accordance with guidelines established by rule of the agent, including the board of supervisors.

*Contractor* is defined as any person who has a contract with an agent. (A.R.S. § 34-101)

### **Provisions**

1. Includes an assignment of money market account and demand deposit accounts as a substitute for the required retention of pay estimates of a construction contract. (Sec. 1)
2. Clarifies the agent, in a construction contract, may not accept a money market account or demand deposit account as a substitute unless the accounts are accompanied by a signed waiver of the bank of any right or power to setoff against either the agent or the contractor. (Sec. 1)
3. Requires written authorization of the agent before monies deposited in a money market account or demand deposit account can be released by the financial institution to the contractor. (Sec. 1)
4. Makes technical changes. (Sec. 1)

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-fourth Legislature - Second Regular Session**

**ROLL CALL VOTE**

COMMITTEE ON Commerce BILL NO. SB 1510

DATE May 19, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez		✓			
Epstein		✓			
Kern		✓			
Meza					✓
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		8	0	0	1

APPROVED:

  
JEFF WENINGER, Chairman  
TRAVIS W. GRANTHAM, Vice-Chairman

  
COMMITTEE SECRETARY

ATTACHMENT 23

Submitted Testimony  
Commerce Committee  
May 19, 2020  
SB 1510

Chairman Weninger and members of the House Commerce committee,

On behalf of the Arizona Bankers Association, thank you for hearing SB1510. This is a simple yet important bill that modernizes and adds flexibility to public construction statutes.

By allowing contractors to utilize money market and demand deposit accounts to satisfy retainage requirements, SB1510 updates public construction statutes to reflect modern practice and codifies how many Arizona cities are already conducting business. Using money market and demand deposit accounts for retainage makes it easier for contractors to access the funds but also makes it easier for contractors to *add* funds should the contract size increase. Additionally, as retainage accounts are structured like any escrow account, funds cannot be withdrawn without permission of the contracting jurisdiction. SB1510 was amended in the Senate to codify this structure in statute.

As amended, SB1510 is supported by the Arizona Bankers Association, the Arizona Chapter of Associated General Contractors and the League of Arizona Cities and Towns. We respectfully ask you to vote *yes* on SB1510.

Thank you,

Steven M. Killian  
Director of Government Relations  
Arizona Bankers Association



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature  
Second Regular Session

Senate: FIN DP 9-0-1-0 | 3<sup>rd</sup> Read 30-0-0-0

## **SB 1397: Insurance; preexisting condition exclusions; prohibition**

**Sponsor: Senator Mesnard, LD 17**

**Committee on Commerce**

### **Overview**

Conditionally requires health care insurers to provide guaranteed availability of individual health plan coverage to eligible individuals.

### **History**

The Patient Protections and Affordable Care Act (PPACA) is intended to expand access to insurance, increase consumer protections, emphasize prevention and wellness, improve quality and system performance, expand the health workforce, and curb rising health care costs (NCSL Summary Brief).

On December 14, 2018, the U.S. District Court for the Northern District of Texas declared the individual mandate of the ACA unconstitutional and the remaining provisions of the ACA inseverable from the mandate and thus invalid (Texas v. Azar).

### **Provisions**

#### ***Individual Health Plans (Sec. 1)***

1. Requires health care insurers who offer individual health plans to provide guaranteed availability of coverage to eligible individuals who enroll in health insurance coverage.
2. Prohibits health care insurers who offer individual health plans from:
  - a) Declining to offer that coverage to, or deny enrollment of, that individual; and
  - b) Imposing any preexisting condition exclusions with respect to the issuance, renewal or scope of benefits.
3. Permits health care insurers to restrict enrollment in individual health plans to open enrollment and special enrollment periods to the extent the periods are not inconsistent with applicable federal law.
4. Requires the Director of the Arizona Department of Insurance and Financial Institutions to adopt rules establishing minimum open enrollment dates and criteria for special enrollment periods.
5. Exempts grandfathered health plan coverage and limited benefit coverage.
6. Defines *grandfathered health plan coverage*, *health care insurer*, *individual health plan*, *preexisting condition exclusion* and *transitional health plan*.

#### ***Miscellaneous (Sec. 2)***

7. Conditionally enacts this Act based on a court of competent jurisdiction ruling that the PPACA is unconstitutional and the judgement of that ruling becomes final and definitive by June 30, 2023.

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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8. Instructs the Attorney General, by August 1, 2023 to notify the Director of the Arizona Legislative Council:
  - a) Of the date on which the condition was met; or
  - b) That the condition was not met.

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1397

(Reference to Senate engrossed bill)

1 Page 1, between lines 14 and 15, insert:

2 "3. DISCRIMINATE IN THE SETTING OF PREMIUMS OR RATES BASED ON

3 PREEXISTING CONDITIONS PURSUANT TO SECTION 20-448, SUBSECTION B."

4 Line 24, after "2." insert "SHORT-TERM LIMITED DURATION AND"

5 Amend title to conform

JEFF WENINGER

1397WENINGER  
03/13/2020  
04:08 PM  
C: pp

Attachment 26

Adopted \_\_\_\_\_ # of Verbals \_\_\_\_\_

Failed \_\_\_\_\_ Withdrawn \_\_\_\_\_

Not Offered X Analysts Initials \_\_\_\_\_

**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-fourth Legislature - Second Regular Session**

**ROLL CALL VOTE**

COMMITTEE ON Commerce BILL NO. SB 1397

DATE May 19, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez		✓			
Epstein			✓		
Kern		✓			
Meza					✓
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		7	1	0	1

APPROVED:

  
\_\_\_\_\_  
JEFF WENINGER, Chairman  
TRAVIS W. GRANTHAM, Vice-Chairman

  
\_\_\_\_\_  
COMMITTEE SECRETARY

ATTACHMENT 27

Public comments by Kimberly Dorris, Scottsdale, AZ  
[kkdorris@cox.net](mailto:kkdorris@cox.net)

House Commerce Committee  
Tuesday, May 19<sup>th</sup>, 3:00 p.m.

Mr. Chairman, Committee Members:

My name is Kimberly Dorris. I am for pre-existing condition protections, but I am against SB 1397, because it offers protections in name only, giving insurance companies unlimited opportunity to deny coverage when it is most needed. I have an autoimmune condition called Graves' disease. Before the Affordable Care Act (or ACA) went into effect, I personally experienced discrimination from insurers due to my pre-existing condition. I now buy my insurance on the Arizona individual market with NO subsidy, but I do rely on the ACA's pre-existing condition protections.

SB 1397 is not an adequate replacement for the ACA's robust patient protections, particularly in the midst of the COVID-19 pandemic.

Although SB 1397 does prohibit insurers from denying a policy outright or imposing pre-existing condition exclusions, protecting people with pre-existing conditions isn't like tapping a button on your phone to activate an electronic security perimeter around your home. A better analogy would be protecting your home from an imminent flood, which requires laying down individual sandbags to form a protective barrier. The protective barrier that is the ACA was constructed using several interdependent policy components. If you skimp on sandbags while floodwaters are rising, you put your home at risk. If you skimp on one or more of the ACA's policy components, you put Arizonans at risk.

SB 1397 fails to lay down a Community Rating sandbag or a Cost Sharing sandbag, which means Arizonans with pre-existing conditions could be charged stratospheric premiums, copays, co-insurance, and deductibles.

The bill also fails to address the Essential Health Benefits (EHBs) mandated by the ACA. That's ten more missing sandbags, some of which are services frequently used by patients living with chronic illnesses: lab tests, specialist visits, medications, hospitalization, and emergency care. There are reports that that COVID-19 survivors are suffering from longer-term issues such as reduced lung capacity, cardiac complications, and kidney failure. Should a COVID-19 survivor need care from a pulmonary specialist, a cardiologist, or a nephrologist, the ACA will protect them – but SB 1397 won't. And if a specialist visit or other service is not covered by your insurer – but you end up needing it – it's a triple whammy. You'll have to pay out of pocket, the provider isn't obligated to honor your insurer's discount, and the costs won't go towards your deductible.

Finally, SB 1397 fails to lay down two especially critical sandbags: annual and lifetime caps. This means that Arizonans who require expensive medications or other treatment could have their access to care cut off mid-year.

Rising floodwaters will continually test even the most carefully constructed barrier, trickling in through small gaps and points of weakness. Likewise, insurers will find and exploit vulnerabilities in health care policy. Even with the ACA's fairly robust protections, patients and caregivers are still battling issues like step therapy, surprise billing, non-medical switching, and retrospective denials.

If the ACA is dismantled, the return of medical underwriting would slam into vulnerable Arizonans like a powerful storm surge. SB 1397 does say that insurers can't use the information obtained during medical underwriting to deny a policy outright or to exclude coverage for a specific condition. However, without critical policy sandbags like Community Rating, Cost Sharing, Essential Health Benefits, and bans on Annual/Lifetime caps, SB 1397 will invite a flood of nefarious practices from insurance companies, all designed to deny coverage to Arizonans just when they need it most.

To wrap up with the flood analogy, employer plans and state plans exist at a higher elevation than the individual market. The individual market where I buy insurance is the low-lying ground that would be most devastated if the ACA and its critical protections are dismantled. So I'll leave each committee member with this question: do you believe that SB 1397's protections are robust enough that you would commit to giving up your state plan and joining me on the individual market in 2021? If the answer is "no", then please go back to the drawing board with this bill to ensure that your constituents have the same protections that you do.

Thank you. As I am not able to deliver this testimony in person, I can be reached at [kkdorris@cox.net](mailto:kkdorris@cox.net) with any questions.

May 19, 2020

Dear Commerce Committee:

I am writing to address SB 1397 Pre-existing Conditions bill. The bill is a contingency plan should the Affordable Care Act (ACA) be declared unconstitutional. It does prohibit insurers from denying a policy outright or imposing pre-existing condition exclusions. While the bill is well intentioned and a start at addressing the pre-existing conditions issue, it falls far short of truly protecting Arizonans with pre-existing conditions. It requires a policy covering pre-existing conditions to exist, but does not put any parameters in as to the cost to the patient, what benefits it offers, or if there are lifetime/annual caps.

SB 1397 fails to address community rating or cost sharing, which means Arizonans could be charged extremely high premiums, copays, co-insurance, and deductibles. Without parameters as to the cost of the policy, insurers are able to charge exorbitant amounts, defeating the purpose of protecting Arizonans with pre-existing conditions and making healthcare affordable. Without addressing the cost, patients will end up having to go to the hospital for care once the condition becomes acute, costing the taxpayer and state much more than if the patient could have proactively managed their health through an affordable, comprehensive health care policy.

The bill also fails to address what benefits would be offered through these policies. Patients with chronic care conditions need access to health services to adequately manage their pre-existing condition, among other medical care situations that may arise. Some services that are frequently used by patients living with chronic illnesses: lab tests, specialist visits, medications, hospitalization, and emergency care are paramount in managing their health to mitigate acute care needs. SB 1397 does not address what benefits should be offered, allowing the insurers to offer very few benefits, while complying with this bill that they have offered a policy covering pre-existing conditions. If a specific service is not covered by the insurer, but it is critical for the patient's health, the patient will have to pay out of pocket, which defeats the purpose of having a policy that covers pre-existing conditions.

Finally, SB 1397 fails to address annual and lifetime caps. This means that Arizonans who require expensive medications or other treatment could have their access to care cut off mid-year. Arizonans with life-threatening conditions, like my son with hemophilia, require expensive medications that are literally life changing. It is the difference between living in constant pain, crippled and on disability, to living a productive, healthy life as a contributing Arizonan who can work, pay taxes and contribute to Arizona's future.

While SB 1397 is intended to provide a safety net should the ACA fail, it does not go far enough to ensure that the over 4.2 million Arizonans living with pre-existing conditions will get the benefits they so desperately need to adequately manage their health at an affordable cost. Without those parameters included, SB 1397 is just a talking point for state officials to say we have something in place to address pre-existing conditions, when it fails to adequately do so.

Sincerely,

Cindy Komar